

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**AXIS SURPLUS INSURANCE :
COMPANY,** :
Plaintiff, :
vs. : **CA 05-0527-P-C**
INNISFREE HOTELS, INC., :
Defendant. :

ORDER

This matter came on for a hearing on two motions filed by plaintiff Axis Surplus Insurance Company: a motion for more definite statement (Doc. 25) and a motion to dismiss (Doc. 26). These motions were referred by Senior United States District Judge Virgil Pittman for appropriate action pursuant to 28 U.S.C. § 636(b)(1)(A) & (B).

After discussing the motions with counsel, the parties have agreed to an Order staying Count One of defendant's counterclaim pending completion of an appraisal process contained within the policy of insurance. A proposed order staying action on Count One and requiring regular status reports is to be drafted by counsel for plaintiff and submitted to the Court not later than **January 19, 2006**. During this ten-day period, it was also ordered that defendant, Innisfree Hotels, Inc., file a more definite statement as to its Second Count in its counterclaim seeking a declaratory judgment. Defendant was directed to specifically amend its counterclaim to identify those portions of the relevant insurance policy to be interpreted by this Court that are

arguably supportive of the declaratory judgment that is sought. The amended counterclaim is to be served and filed not later than **January 19, 2006**.

In conclusion, the motion to dismiss (Doc. 26) is **MOOT**, given that the parties agree that Count One of the Counterclaim should be stayed rather than dismissed. The motion for a more definite statement (Doc. 25) is **GRANTED**; defendant shall inform of those specific provisions of the insurance policy supportive of Count Two of the counterclaim not later than January 19, 2006.

DONE and ORDERED this 12th day of January, 2006.

s/WILLIAM E. CASSADY
UNITED STATES MAGISTRATE JUDGE